United States Court of Appeals

for the Second Circuit

APPELLANT'S BRIEF & APPENDIX

75-7682

UNITED STATES COURT OF APPEALS

FOR THE SECOND CIRCUIT

No. 75 - 7682

B

ROBERT CA[illegible]OUN JR., Plaintiff-Appellant,

-against-

P/S

H. SPENCER KUPPERMAN ESQ.,
CRAVATH, SWAINE & MOORE, its agents and others,
THACHER, PROFFITT, PRIZER, CRAWLEY & WOOD,
its agents and others,
SKADDEN, ARPS, SLATE, MEAGHER & FLOM, its agents,
MICHAEL H. DIAMOND, HENRY P. BAER, J PHILLIP ADAMS
PEGGY L. KERR, and others,
FREEMAN, MEADE, WASSERMAN & SHARFMAN, its agents
and others. Defendants-Respondants.

Appeal from the United States District Court for the Southern
District of New York

AND A

BRIEF FOR THE PLAINTIFF - APPELLANT

AND APPENDIX

Robert Calhoun Jr.
111 -11 132 Street
Jamaica, New York
(11420)
JA - 9 - 1374

Attorney Pro se

PAGINATION AS IN ORIGINAL COPY

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Memorandum #43381 (Morris E. Lasker, U. S. D. J.)

Records of 71 Civ 2734 Alice M. Calhoun v Riverside Research Institute and Columbia University.

UNITED STATES COURT OF APPEALS

FOR THE SECOND CIRCUIT

Robert Calhoun Jr., Plaintiff-Appellant -against- H. Spencer Kupperman Esq., et al, Defendant-Respondant.

Preliminary Statement

This appeal is from an " Opinion and Order " entered in the United States District Court for the Southern District of New York by Honorable Kevin T. Duffy on November 11, 1975. This judgement is final and it moots a motion for a summary judgement and grants a motion for the dismissal of the complaint. Plaintiff-Appellant is declaring that the evidence on which the motion and judgement is relying is fraudulant.

Questions Presented

1. Is a motion to dismiss a complaint fraudulant if it contains fraudulant evidence and is based on that fraudulant evidence.?

2. Can a judgement that is based on a motion containing fraudulant evidence as its basis moot a motion for a summary judgement and grant a motion to dismiss a complaint?

Questions Presented

3. Does the plaintiff have a right to cross examine the opposition in order that he may prove to the court that the evidence offered in defense of the complaint is fraudulant ?

4. When the court denies the plaintiff the opportunity to cross examine the opposition, is this a denial of due process of law and a violation of the constitutional rights of the plaintiff ?

Nature Of The Case

This is an action to recover damages for personal injuries sustained by the plaintiff as a result of malpractice by the defendants in the litigation of a civil rights lawsuit for the plaintiff's wife.

Statement Of Facts

A complaint was entered in the United States District Court for the Southern District of New York by Robert Calhoun Jr. , the plaintiff, , against the defendants, H. Spencer Kupperman Esq. (Kupperman). , Cravath Swaine & Moore, (Cravath), Skadden Arps Slate Meagher & Flom, (Skadden Arps), Thacher Proffitt Prizer Crawley & Wood, (Thacher Proffitt), and Freeman Meade Wasserman & Sharfman (Freeman Meade). The plaintiff claims that the defendants did enter into collusion and a conspiracy to defraud his wife of the benefits of a civil rights lawsuit. (R page 1)

H. Spencer Kupperman denies all of the allegations of the complaint but he fails to rebut with evidence, argument or proof the charges alleged. (R page 3). Cravath, Skadden Arps, and Freeman Meade do not deny the charges nor do they rebut them but they put forth the

procedural motion to dismiss the complaint for lack of standing and other academic grounds rather than for reasons based on the substance of the complaint. (R pages 5, 6, 9, 10, 11 and 12)

A motion by the plaintiff to invoke rule 4 of the Federal Rules of Civil Procedure was not acted upon even though defendant Thacher Porffitt is in default. (R page 7)

Before Honorable Kevin T. Duffy, on September 17, 1975, the defendants all joined in the motion put forth by Skadden Arps to dismiss the complaint. (R pages 11 and 12). The plaintiff pointed out, at the hearing, that the transcript was fraudulant as well as the " Stipulation of Discontinuance" on which the motion was based. (R page 13)

The motion for summary judgement that was entered by the plaintiff in response to the fraudulant evidence entered by the defendants was mooted by the " Opinion and Order # 43384 " issued by Honorable Kevin T. Duffy on November 11, 1975. (R page 15). The affidavit entered by Freeman Meade failed to rebut the charge of fraud nor did it offer a defense to substantiate the efficacy of the documents in question. (R page 13a)

The plaintiff's motion to have the defendants show and post security for the damages claimed in the complaint was not acted upon prior to the issuance of the " Opinion and Order # 43384 ". (R page 14)

A timely notice of appeal was filed and a motion to " Perpetuate the Testimony" was also filed and denied by endorsement.(R pages 16 and 17). The plaintiff made application for " A writ of mandamus" in order that he could enforce the motion to " Perpetuate the Testi-

mony. The writ was denied in the United States Court Of Appeals For The Second Circuit. (R page 19)

Argument I

The arguments put forth by the defendants are procedural at most but they do not disprove nor deny the allegations of the complaint. The complaint is in accord with 28 USC 1343 as well as rules 8, 9, and 10 of the Federal Rules Of Civil Procedure. The charges stated in the complaint are collusion, conspiracy, fraud and deceit. These acts constitute malpractice, wanton and wilful misconduct, unauthorized representation and misrepresentation. The guilty parties are liable to the injured persons for exemplatory damages. The defense to such charges must be specific facts in accordance rule 56 (e) of the F.R.C.P. Since the defendants have failed to defend as required nor have they put forth any substantiated denial, rule 56(e) should apply in order that unnecessary litigation can be eliminated.

Argument II

The plaintiff finds that the records in this case are in disarray and inaccurate in content. The record keeping is suspect and the registration of the documents are suspicious. The plaintiff finds that the " Opinion and Order #43384 " does not reflect the attendance at the September 17, 1975 conference. There are only two correct pro se appearances shown on the document. This is one of the faults that is causing the plaintiff some anxiety over the proceedings in this case.

The plaintiff finds that the " Stipulation Of Discontinuance " that was entered into the case on September 17, 1975 before Honorable Kevin T. Duffy is missing from the record file. The plaintiff finds that the " Appearances" shown on the cover of the " Opinion and Order #43384 " are in error and list persons that are deceased. (R page 15) The plaintiff can not understand how this kind of procedure can be condoned or allowed in a court of justice. The date of issue is also suspect because it was not typed in as was the date on the attached " Memorandum ". More interesting to note is that the date of issue is a legal holiday (Veterans Day). The court should further note that the " Opinion and Order # 43384 " was executed on November 11, 1975 while the attached Memorandum was executed on November 12, 1975 but the Opinion and Order was not filed until after the Memorandum was filed in the court. Where was this document from November 11 to November 13, 1975 ?

The plaintiff emphasize these facts in order that the court may understand the extent that these defendants have gone to try to deceive the court and confuse these proceedings.

The entry of this judgement is contrary to rule 58 of the Federal Rules Of Civil Procedure. The handling of the records are in violation of rule 79 of F. R. C. P. These breaches of procedures deny the plaintiff a fair and impartial adjudication of his complaint. They conceal evidence and distort the truth of the proceedings.

Argument I I I

The transcript included in the " Memorandum Of Law etc. " by Skadden Arps is defective in many aspects. It fails to state the nature or purpose of the examination. It fails to identify the parties present nor does it state the capacity of the persons present. It does not specify who is acting for the " Court " nor does it give the facts about the previous transactions of the " Court " in this case. These omissions leave in doubt whether Judge Knapp was being used as a catalyst in these proceedings as assumed by Honorable Kevin T. Duffy in his Opinion and Order #43384. We are left to speculate as to the extent the catalyst is used and who authorized this forum. Since a catalyst can be both retarding or accelerating one wonders which was this one used for. If this conference was called to settle this dispute, it should have been done according to rule 41 of F. R. C. P. Since this rule was not followed the proceedings are not impartial nor fair. The results of this conference should be voided and any judgement set aside.

If the assumption is true that Honorable Whitman Knapp was used as a catalyst as is setforth in the " Opinion and Order #43384 ," then the argument of " a voluntary discontinuance ", is defeated by the entrance of this catalytic influence. Since the trial judge was used to influence the settlement, the influence becomes excessive and coercive. Since this is pure speculation and assumptive, we prefer that the court reject the basis for this speculation, defendants motion along with the " Opinoin and Order #43384 "

Argument III (continued)

The assumptuon that Col. bia University was discontinued at some point in the suit is speculation that is unfounded, without substance or grounds for mention in this action. The substance of the litigation of the civil rights suit will not be argued in this action. Assumptions and false statements will be refuted as they are entered in this action in order that self serving distrotion will not conceal the truth.

The assumption that a disputed settlement of $3000. 00 had been reached is also unfounded and unsubstaniated and is solely based on the fraudulant transcript. The further assumption that Mrs. Calhoun's Civil Rights case was being litigated on a pro bono basis is completely false and without foundation and contrary to the pleadings of the complaint. The dialogue of the transcript is self serving, deceitful, and contrary to the facts.

The conclusion that the plaintiff is sueing for the civil rights of his wife is not the purpose of this complaint. The purpose of this action is to recover from the responsible parties the damages suffered by the plaintiff from the malpractice and misconduct practiced by defendants against his wife. " Both husband and wife may recover damages for the loss of the conjugal society or consortium of the other as a result of a tortious acts of another. Such damages, in order to recover therefore, should be alleged in the complaint. (15N. Y. Jur. Domestic Relations 307)

" Husband's cause of action for loss of wife's services and expenses resulting from personal injury, is separate and distinct

Argument I I I (continued)

from wife's cause of action for personal injuries. He must establish that the defendant was negligence and that his wife was not contributory to the negligence in order to succeed in his action. Mangrelli vs Italian Line, 144 N. Y. S. 2d. 570, 280 Misc. 685

The opinion that the plaintiff lacks standing is a denial of equal protection of the laws of the State of New York. Since the State has jurisdiction over the marriage relation the court is bound to uphold this law or declare it unconstitutional but to deny the plaintiff the protection of the law while allowing the law to stand is to deny him the Constitutional rights guaranteed by the Fourteenth Amendment.

Argument I V

The motion put forth by the defendants, (page 4) states: " On June 26, 1974 counsel, Mrs. Calhoun and her husband Robert Calhoun Jr., (the plaintiff herein) all appeared before Judge Knapp for the purpose of determining whether in fact a settlement had been agreed to. " I want to inform this court that everyone named in this paragraph represents the plaintiff so how could there be such a dispute? When we go to the transcript for a clearer understanding of the proceedings we are even more confused as to what happened on June 26, 1974. I put forth my question, what is so complex about a voluntary dismissal of a complaint that the attorneys effectuating the act can not show to this court what took place in the proceedings? This alone

strikes me as unethical and suspicious. There seems to be no written agreements, no signed statements, no proof of payments, and none of the normal safeguards used in regular business practice. This Court should demand a complete review of the proceedings of this and its associated case to make sure that the adjudication of the issues and the facts are proper and fair. The lawyers in this matter should be made to account for their deeds whatever they might be and if they are found to be guilty of misconduct and/or malpractice then punishment should be meeted out accordingly. Both husband and wife in this case should be awarded damages against the defendants and the case sent back to the District Court for trial of the issues. I can not see any other means of serving justice on all parties concerned.

The paragraph further states that " This sum did not include any counsel fees to Messrs. Diamond and Baer, etc. " If there was no counsel fees due, why was it necessary to stipulate that no counsel fees were included? The complaint does indeed ask for reasonable attorney fees. How is this obviated? It could only be done by collusion between opposing lawyers or by amending the complaint. There was no amendment of the complaint that we know of. There was an agreement to pay lawyers fees which I witnessed and agreed to along with my wife.

We claim that a conspiracy began with the institution of the law suit and continued until June 26, 1974 when it culminated in an aborted fiasco. This staged proceeding was for the purpose of defrauding Mrs. Calhoun of her justice.

Argument V

The transcript indicates that a " Court exhibit No. 1 " was marked and entered but the exhibit can not be found nor can the contents of this exhibit be established. I am sure that no such document was entered at the conference in my presence. If such a document is available, I emplore those who have it or a copy of it to present the same for inspection and review. If no such document can be produced, I emplore this court to note this gross defect and act to eliminate this document as valid evidence. This is a fabrication of evidence by the defense to confuse and deceive this court.

We can not justify the use or purpose of such a document in a proceeding such as the one put forth by the defendants. We are suppose to believe that the "plaintiff, Mrs. Calhoun " is voluntarily entering a discontinuance in her case against the defendants, Riverside Research Institute and Columbia University. Now if we believe this, what procedure are we suppose to believe that the " Court " took in accepting this dismissal?

Once the court is convened at the request of the plaintiff so that the court record can reflect the action, what coercion or action is necessary for the court to perform to complete such an action. Is there some " Court exhibit No. 1 " that is essential to this type of an arrangement.? Why would the court become involved in a voluntary agreement? If the court interferes with such agreement, can it still be considered voluntary? When the court gets involved in the dismissal of an action shouldn't it follow rules 41 and 54 of the F.R.C.P. ?

We will now set forth the evidence to show that no such document was entered on June 26, 1974 while we were present. In our motion for summary judgement, we included a letter written by defense counsel to plaintiff counsel stating that the " Stipulation of Discontinuance " was entered and signed on July 1, 1974. This agrees favorably with the entrance on the docket sheet. (R page 13 and Appendix I) The plaintiff wishes the court to take judicial notice of the docket sheet where the entrance was made for the transcripts dated 6-26-74. This entry is not in conformity with the other entries. We further request that due notice be taken of the other executed " Stipulation of Discontinuance" forms used in this action. (Appendix I)

Finally, we see on the last page of the transcript a statement in parenthesis: (The foregoing statements by the Court were read) Now the whole hoax is exposed if we can believe the truth of this statement. Without speculation or assumptions we are told that this transcript is not what it is purported to be, a direct examination, it is a reading by someone to the transcriber. Can we doubt the words of the recorder of this document as to how this information was conveyed to him. (see defendants Memorandum of Law in Support of the Motion-R page 12)

The plaintiff now ask this court , whether it will exact more from the plaintiff than was required of the defendants in this action.? Even though the plaintiff has been denied the opportunity to show by cross examination the true extent that fraud and deceit, collusion and conspiracy have been practiced in this matter, he has shown to this tri-

bunal various acts of fraud and deceit, collusion and conspiracy. These acts include all of the defendants without exception. The failure of the defendants to deny or rebut the charges is also fatal without an affirmative defense to exonerate them of the charges. Since plaintiff has shown evidence to corroborate his charges and even entered argument based on the defendants evidence to sustain his claims, can there be any judgement other than for plaintiff? There is little or no defense left for the defense based on the evidence entered into this action that can withstand challenge.

Conclusion

The plaintiff have shown to this court that the arguments put forth by the defendants fail to disprove the allegations of the complaint nor do evidence support the denials in this action. The records and the procedures used in keeping these records are shown to be in favor of the defendants. The documents entered as evidence in this case is fraudulant, contradictory and confusing.

The plaintiff begs the court to find the defendants guilty of fraud and deceit, conspiracy and collusion. The defendants have made false statements to the court and used deceptive methods before the court in an effort to deceive the court. We urge this court to consider the gross injustice that will result if these guilty parties are not dealt with swiftly and soundly. If the culprits are given anything less than the judgement asked in the complaint, they will be the better off for it. They will have profitted from their crimes. The plaintiff will suffer even more injury.

The plaintiff calls the attention of the court to the fact that the culprits have profitted from their criminal acts while causing the plaintiff much unnecessary suffering, lost of many pleasureful enjoyments, and the time and expenses along with the family and other encroachments enumerated in the complaint.

The plaintiff has conducted himself in accordance with the rules and dictates of the court while the defendants have ignored both the code of professional ethics and the rules and procedures of this court. The defendants have made false statements before this court and used deceitful and fraudulant tactics in the proceedings. The plaintiff has tried to carry out the orders and procedures of the court even though compliance required overcoming docketing irregularities as well as denials by the court to discover the evidence in this controversy.

The plaintiff now ask for your honorable and ernest judgement of these facts and arguments. He pleads for a judgement in his favor and against the defendants based on their lack of denials and/or their failure to make a substanual defense.

We submit this plea for your honorable scrutiny and most honorable judgement.

Respectfully submitted

Robert Calhoun Jr.
111-11 132 Street
Jamaica, New York
11420
JA- 9-1374

APPENDIX

Complaint

Docket Sheet

Stipulation Of Discontinuance

Index (United States Court Of Appeals)

IN THE

UNITED STATES DISTRICT COURT

FOR THE

SOUTHERN DISTRICT OF NEW YORK

----------X

ALICE M. CALHOUN,

Plaintiff,

CIVIL ACTION NO._____

v.

RIVERSIDE RESEARCH INSTITUTE and
COLUMBIA UNIVERSITY,

Defendants.

----------X

COMPLAINT

I

Jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1343(4); 42 U.S.C. § 2000e-5(f) and 28 U.S.C. §§ 2201 and 2202. This is a suit in equity authorized and instituted pursuant to Title VII of the Act of Congress known as "The Civil Rights Act of 1964," 42 U.S.C. §§ 2000e et seq. The jurisdiction of this Court is invoked to secure protection of and to redress deprivation of rights secured by (a) 42 U.S.C. §§ 2000e et seq., providing for injunctive and other relief against racial discrimination in employment

and (b) 42 U.S.C. § 1981, providing for the equal rights of all persons in every state and territory within the jurisdiction of the United States.

II

Plaintiff brings this action on her own behalf and on behalf of other persons similarly situated pursuant to Rule 23(b)(2) of the Federal Rules of Civil Procedure. The class which plaintiff represents is composed of Negro persons who are employed, or might be employed by Riverside Research Institute and its parent, Columbia University at the formers New York City facilities, who have been and continue to be or might be adversely affected by the practices complained of herein. There are common questions of law and fact affecting the rights of the members of this class who are, and continue to be limited, classified and discriminated against in ways which deprive and tend to deprive them of equal employment opportunities and otherwise adversely affect their status as employees because of race and color. These persons are so numerous that joinder of all members is impracticable. A common relief is sought. The interests of said class are adequately represented by plaintiff. Defendants have acted or refused to act on grounds generally applicable to the class.

III

This is a proceeding for a declaratory judgment as to plaintiff's rights, for monetary damages caused to the plaintiff by the discriminatory practices practiced by the defendants, and for a preliminary and permanent injunction, restraining defendants from maintaining a policy, practice, custom or usage of: (a) discriminating against plaintiff and other Negro persons in this class because of

race or color with respect to compensation, terms, conditions, privileges of employment and classifying employees of defendants, Riverside Rese n Institute and its parent, Columbia University, in ways which deprive plaintiff and other Negro persons in this class of equal employment opportunities and otherwise adversely affect their status as employees because of race and color.

IV

Plaintiff, ALICE M. CALHOUN, is a Negro citizen of the United States and a resident of the City of New York, in the State of New York. Plaintiff is employed by Riverside Research Institute, and its parent Columbia University, at its premises in the City of New York, State of New York.

V

(A) Defendant, RIVERSIDE RESEARCH INSTITUTE, is a non-profit corporation, doing business in the State and City of New York. Riverside Research Institute operates and maintains offices and laboratory facilities in the City of New York in the State of New York. The company is an employer within the meaning of 42 U.S.C. § 2000e(b) in that the company is engaged in an industry affecting commerce and employs at least twenty-five (25) persons.

(B) Defendant, COLUMBIA UNIVERSITY, is an employer within the meaning of 42 U.S.C. § 2000e in that the institution is engaged in an industry affecting commerce and employs at least twenty-five (25) persons and furthermore the University is the parent of Riverside Research Institute and that they are one and the same.

VI

(A) All matters regarding compensation, terms, conditions and privileges of employment of the plaintiff and the class she represents have been, at all times material to this action, governed and controlled by the defendants exclusively, since the plaintiff and the class she represents are not represented by any unions. The defendants have established a promotional system, the design, intent and purpose of which is to continue and preserve, and which has the effect of continuing and preserving the defendants' policy, practice, custom and usage of limiting the employment, and promotional opportunities of Negro employees of the defendants because of race or color.

(B) The defendants did wilfully deny the plaintiff, ALICE M. CALHOUN, a promotion to the position of assistant manager because of her race despite the fact that she was equally schooled, was better qualified, was better paid, had considerably more time on the job than her white co-worker who was promoted to the position of assistant manager on January 30, 1970, and furthermore, the plaintiff had been acting in a supervisory position for almost three (3) years prior to her white co-worker's promotion. That the plaintiff, ALICE M. CALHOUN, was purposefully deprived of a chance to use a new computer brought into the defendants' premises; that in an effort to penalize the plaintiff for filing charges with the Equal Employment Opportunity Commission, her annual salary increase was drastically cut from what the amount has usually been in previous years; and that the defendants did discriminate against the plaintiff by retaliating against her for her attempting to have a petition signed by her fellow workers

regarding her white co-worker's promotion; and that racial slurs were made by the defendant's current section manager directly to the plaintiff's person.

VII

The plaintiff, ALICE M. CALHOUN, and the class she represents, is and has been substantially qualified for promotions and for the training which could lead to promotion on the same basis as their fellow white employees, if equal opportunity had been made available to the plaintiff and the class she represents.

VIII

That because of the defendants' discriminatory practices, the plaintiff was not promoted to that position which she was qualified for and in which position she had been functioning for three years prior to the Caucasian co-worker's being promoted over her, the plaintiff has suffered damages in the form of loss of wages.

IX

That the plaintiff filed her complaint with the State of New York within 90 days of the occurence of the acts of which the plaintiff, ALICE M. CALHOUN, complains. Furthermore, that within 210 days of the occurrence of the acts of which the plaintiff, ALICE M. CALHOUN, complains, she filed written charges, under oath, with the Equal Employment Opportunity Commission alleging denial by the defendants of plaintiff's rights under Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000 et seq..

That on or about the 29th day of May, 1971, plaintiff was advised that she was entitled to institute a civil action in the appropriate Federal District Court within thirty (30) days of receipt of said letter of Notice of Right to Sue.

Plaintiff and the class she represents have no plain, adequate or complete remedy at law to redress the continuing wrongs alleged herein and this suit for a permanent injunction, as well as money damages in the form of loss of wages, is the only means of securing adequate relief. Plaintiff and the class she represents are now suffering and will continue to suffer irreparable injury from the defendants' policies, practices, customs and usage as set forth herein.

W H E R E F O R E, Plaintiff respectfully prays this Court advance this case on the docket, order a speedy hearing at the earliest practicable date, cause this case to be, in every way, expedited and upon such hearing, to:

1. grant plaintiff and the class she represents a permanent injunction enjoining the defendants, Riverside Research Institute and Columbia University, their agents, successors, employees, and attorneys, and those acting in concert with them and at their direction from continuing to abridge the plaintiff's and the class she represents rights;

2. grant plaintiff those monetary damages she has personally suffered due to loss of wages precipitated by the defendants' discriminatory practices.

3. grant reasonable attorney fees to H. Spencer Kupperman incurred as a result of this action.

Yours,

H. SPENCER KUPPERMAN
Attorney for Plaintiff
228 Bergen Street
Brooklyn, New York 11217
875-0433

CIVIL DOCKET

TED STATES DISTRICT COURT

JUDGE KNAPP ~~JUDGE TYLER~~

Jury demand date:

71 CIV. 2734

No. [illegible]

TITLE OF CASE	ATTORNEYS
LICE M. CALHOUN VS. RSIDE RESEARCH INSTITUTE AND COLUMBIA UNIVERSITY	For plaintiff: H. SPENCER KUPPERMAN 223 Bergen St. Brooklyn, N.Y. 11217 For defendant: Thacher, Proffitt, Prizer, Crosley & Wood (for Trustees of Columbia University) 40 Wall St. NY 10005 269-5100 ~~CRAVATH, SWAINE & MOORE~~ ~~One Chase Manhattan Plaza~~ ~~NYC 10005~~ MEADE, WASSERMAN & PLOWDEN-WARDLAW 1 Chase Manhattan Plaza, N.Y. (Sub. on 4-18-72)

STATISTICAL RECORD	COSTS			DATE	NAME OR RECEIPT NO.	REC.		DISB.	
5 mailed X	Clerk								✓
6 mailed ✓	Marshal								
of Action: CIVIL RIGHTS. ACT. 1964	Docket fee								
	Witness fees								
n arose at:	Depositions								

ALICE M. CALHOUN ... AND COLUMBIA UNIVERSITY.

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JUDGE KNAPP

JUDGE PAGE

DATE	PROCEEDINGS	
Jun21-71	Filed Complaint. Issued Summons.	
Jun21-71	Filed Notice of Assignment J. Tyler	
ul.15-71	Filed stip and order that the time for deft. Riverside Research Institute, to answer complaint is ext. from 7-12-71 to 8-9-71. So Ordered. Tyler,J.	
ul 20-71	Filed stipulation and order extending The Trustees of Columbia University in the City of New York's time to answer complaint to 8/9/71. So ordered. Tyler,J.	
ug.18-71	Filed Summons with Marshal's ret. Served: Columbia University, by Dr. McGill on 6-24-71	
	Served: Riverside Research Institute by Walter Harris on 6-24-71	
ept.7-71	Filed stipulation and order extending defendants' time to answer complaint to 9/10/71. So ordered. Pollack,J.	
ep.7-71	Filed ANSWER of Trustees of Columbia University to complaint.	TPPC&W
ep.23-71	Filed stip and order that pltff's time to move pur. to rule 11(a) for a determination of a class is extended to 10-18-71 Tyler J.	
ep.23-71	Filed stip and order that deft Riverside Research Institute's time to Answer the complaint is extended to 10-1-71 Tyler J.	
ct.4-71	Filed deft. Riverside ANSWER to complaint	CW&M
ct.20-71	Filed stip and order that the time for pltff. to move for a determination of a class action is ext. to 11-18-71. Tyler,J.	
ov.1-71	Filed stip and order that the deft. Riverside Research Institute's time to amend its answer to the complaint is ext to 11-18-71. Tyler,J.	
ov.18-71	Filed stip and order tha pltff's time to move for a determination of a class is ext. to 1-3-72, etc. Tyler,J.	
Jan 5/72	Filed Stip. and Order extending time to answer to 2/14/72. So Ordered Tyler J.	
Feh 15/72	Filed Stip & Order extending time to answer to 4/3/72/ So Ordered Tyler J.	
Mar.13-72	Filed stipulation and order discontinuing action as against deft. Columbia University only. So ordered. Tyler, J.	
pr.18-72	Filed consent & order to substitution of attorneys for deft's, Riverside Research Institute. So ordered. Tyler,J.	
May 18-72	Filed Affidavit of Walter Harris in opposition to motion of pltf.	
May 18-72	Filed Reply Memorandum of Law.	
May 18-72	Filed Memorandum in support of pltf's motion for declaration of a class action.	
May 18-72	Filed Affidavit of Alice M. Calhoun.	
May 18-72	Filed Notice of Motion Re: Class action determination. Ret. 6/14/72 in ROOM 2704.	
May 18-72	Filed Memorandum of deft. Riverside Research Institute in opposition to pltf's motion for class action determination.	
May 18-72	Filed MEMORANDUM OPINION #38500. Tyler, J. The motion re: Maintain as a class action, is denied upon determination that certain conditions precedent and other requirements of Rule 23 cannot be met in this case. It is so ordered. (mailed notice).	
Jun.8-72	Filed pltff's Notice of motion to reargue be denied, pltff. be allowed to appeal, etc.	
Jun.8-72	Filed pltff's Memorandum	
Jun.8-72	Filed Affdvt. of Service by Mail by I.H. Spencer Kupperman, to deft. on 5-27-72.	
Jun.8-72	Filed deft's Memorandum in opposition to pltff's motion for reargument	
Jun.8-72	Filed Memo Endorsed on motion filed this day. The Motion for reargument is denied, etc. So Ordered. Tyler,J.	
ep 25-72	Filed pltff's notice of motion Re:Withdrawal of counsel ret 9-22-72.	
ct 4-72	Filed Order that the motion of H. Spencer Kupperman, for leave to withdraw his ... of record for pltff is granted. (mailed notice) TYLER,J.	

ALICE M. CALHOUN -v- RIVERSIDE RESEARCH INSTITUTE and COLUMBIA UNIVERSITY

 71 Civil 2734

D. C. 110 Rev. Civil Docket Continuation

DATE	PROCEEDINGS
Jan12-73	Filed deft Riverside Research Institute's notice to take deposition of pltff Alice M. Calhoun on 2-23-73.
Jul 20-73	Filed Stip and Order that all of deft Riverside Research Institute's privileges, rights etc. to suppress or otherwise move , in respect of any and all material obtained from the files or records of local state of federal governmental agencies are reserved to the trial of this action, it being expressly agreed and ordered that this reservation and Riverside Research Institute's deferral until trial of as. [illegible]m of its privileges, rights etc., the subject matter hereof sh[illegible] in no way prejudice such privileges, rights or remedies. KNAPP
Apr5-73	Filed order denying petitioner's motion for an order vacating the denial of petitioner's supplemental petion for writ of habeas corp Knapp,J. [illegible]mn by Pro Se.
[illegible],26 73	Pre-trial conference held before Magistrate Goettel.
Feb.28 74	Filed pltff's notice to take deposition of B.A. Collier.
Mar.28 4	Filed notice of Pre-trial conference before Magistrate Goettel.
May. 1 74	PRE-TRIAL CONFERENCE HELD BEFORE MAGISTRATE GOETTEL.
May.14-74	Filed consent & pre trial order. So ordered. Knapp,J.
Jun.27-74	Filed Order that action is discontinued without costs. Knapp,J.
Jul.2-74	Filed stip & order that action is discontinued with or [illegible] without costs. So ordered. Knapp,J.
7/12/74	Filed transcript of record of proceedings, dated 6/26/74
8/9/24	[illegible]
Mar.5-75	Filed pltff's request assignment of legal representative.
Jul.15-75	Filed pltff's notice of appeal to the USCA from final judgment entered June 27-1074. Mailed copies to Friedman,Meade,Wasserman & Sharfman & Riverside Research Institute Inc.

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

ALICE M. CALHOUN,

Plaintiff,

-against-

RIVERSIDE RESEARCH INSTITUTE and COLUMBIA UNIVERSITY,

Defendants.

STIPULATION OF DISCONTINUANCE

71 Civ. 2734 W.K.

IT IS HEREBY STIPULATED by and between the undersigned that the above entitled action be and it hereby is discontinued with prejudice and without costs to either party.

June 26, 1974

Attorney for Plaintiff

Attorneys for Defendant Riverside Research Institute

SO ORDERED:

U.S.D.J.

34

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

ALICE M. CALHOUN, Plaintiff, -against- RIVERSIDE RESEARCH INSTITUTE and COLUMBIA UNIVERSITY, Defendants.	:	STIPULATION OF DISCONTINUANCE 71 Civ. 2734 W.K.

IT IS HEREBY STIPULATED by and between the undersigned that the above entitled action be and it hereby is discontinued with prejudice and without costs to either party.

June 26, 1974

Michael Diamond, Esq
By Harry P. Begg
Attorney for Plaintiff

Simpson Thacher & Bartlett By R. Stamler
Attorneys for Defendant Riverside Research Institute

SO ORDERED:

U.S.D.J.

United States Court of Appeals
for the Second Circuit

ROBERT C
ROBERT CALHOUN JR. Plaintiff,

vs

H. SPENCER KUPPERMAN, ET AL
Defendant.

United States Court
Southern District of
New York

Case No. 75 Civ 3748

Judge Kevin T. Duffy

Index to the Record on Appeal

Documents

Certified copy of the docket sheet A-B

7/13/76

Proof of service by plaintiff.
2 copies of brief by plaintiff Appellant Robert Calhoun

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CERTIFICATE OF MAILING

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Robert CALHOUN Jr.
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